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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,197	07/10/2001	Keith A. Jackson	47088-00046	8308

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EXAMINER

MAI, TRI M

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 07/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/902,197

Applicant(s)

JACKSON, KEITH A.

Examiner

Tri M. Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-16 and 18-23 is/are allowed.
- 6) ☒ Claim(s) 1-10, 12 and 17 is/are rejected.
- 7) ☒ Claim(s) 11 and 13 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8, "said top of said first and second side panels" has no antecedent basis.

Furthermore, the top at portion 28 and 26 do not angle away as shown in Fig. 1.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 5, 7, 8, 10, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Baptist (4053098). Baptist teaches a container having bottom panel 3, side panels 2, end panels 4, the hinge at portions 6 and 9 is offset from a top of the container as claimed, i.e., the distal edge of portion 150 is a top as claimed.

Portions 180 are considered the hand holes as claimed.

5. Claims 1, ~~2~~ 6, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by De Mian (2450035). De Mian teaches side walls 19 and 21, end panels 11, and platform structures formed by portions 13, 15, and 17 along hinges below the top walls 20 as shown in Fig. 4.

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6. Claims 1 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by either Thyen (3111254) or Nederveld (4645122). Note the platform 30 in Thyen and 23 in Nederveld connected along hinges 126 and 20 respectively.

Claim Rejections - 35 USC § 102

7. Claims 1-5, 7-9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Glass (2973424). Glass teaches first and second hinged platforms as shown in Figs. 17-25.

Regarding claim 2, note the first and second top platforms 272, 302, first and second end folding flaps 300 and 270, 1st-4th reinforcement flaps 284, 285, 314, 315.

Regarding claim 3, the 1st- 4th minor platforms panels 290, 291, 318, 319 are above the top platforms 272 and 302 when the lid is folded backward in the fully open position.

Regarding claim 4, the 1st- 4th minor platforms panels 290, 291, 318, 319 are below under the top platforms.

Regarding the blank, portions 235 and 215 are the side panels, 233 and 213 are the end panels, 300 and 270 are end folding flaps, 302 and 272 are the top platforms.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eichorn in view of Hughes. Eichorn teaches a container having sidewalls 22 and 24, and end walls 66 and 30, and a platform having a fold line at portion 87. Eichorn meets all claimed limitations except for the

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platform feature is on the other side of the container. Hughes teaches that it is known in the art to provide the two sides of a container having identical closure platform. It would have been obvious to one of ordinary skill in the art to provide another closure platform having a fold line at portion 87 in Eichorn in view of Hughes to cut the blank easily and/or to facilitate manufacturing of the container easily.

Allowable Subject Matter

10. Claims 14-16, and 18-23 are allowed.
11. Claims 11 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

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Tri M. Mai

Examiner

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T. Mai

June 25, 2002